

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

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PCT

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LOS ANGELES

WRITTEN OPINION

(PCT Rule 66)

Date of Mailing (day/month/year) 10 SEP 2002	
REPLY DUE within 2 months/days from the above date of mailing	
Applicant's or agent's file reference 4906.P016PCT	International application No. PCT/US01/50012
International filing date (day/month/year) 20 December 2001 (20.12.2001)	Priority date (day/month/year) 30 December 2000 (30.12.2000)
International Patent Classification (IPC) or both national classification and IPC IPC(7): H04B 10/20; H04J 14/08; H04L 12/437 and US Cl.: 370/218, 223, 228, 404, 460, 469, 477; 359/115, 119, 135	
Applicant REDBACK NETWORKS INC.	

1. This written opinion is the <u>first</u> (first, etc.) drawn by this International Preliminary Examining Authority.							
2. This opinion contains indications relating to the following items: <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the opinion II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2 (a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application 							
3. The applicant is hereby invited to reply to this opinion. <table style="width: 100%; border: none;"> <tr> <td style="width: 15%; vertical-align: top;">When?</td> <td>See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension. See rule 66.2(d).</td> </tr> <tr> <td style="vertical-align: top;">How?</td> <td>By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.</td> </tr> <tr> <td style="vertical-align: top;">Also</td> <td>For an additional opportunity to submit amendments, see Rule 66.4. For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis. For an informal communication with the examiner, see Rule 66.6</td> </tr> </table> <p>If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.</p>		When?	See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension. See rule 66.2(d).	How?	By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.	Also	For an additional opportunity to submit amendments, see Rule 66.4. For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis. For an informal communication with the examiner, see Rule 66.6
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Also	For an additional opportunity to submit amendments, see Rule 66.4. For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis. For an informal communication with the examiner, see Rule 66.6						
4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: <u>30 April 2003 (30.04.2003)</u>							
Name and mailing address of the IPEA/US Commissioner of Patents and Trademarks Box PCT Washington, D.C. 20231 Facsimile No. (703)305-3230	Authorized officer Alpus H. Hsu Telephone No. <u>(703)305-4700</u>						

WRITTEN OPINION

International application No.

PCT/US01/50012

I. Basis of the opinion

1. With regard to the elements of the international application:*

- ☒ the international application as originally filed
- ☒ the description:
 pages 1-25, as originally filed
 pages NONE, filed with the demand
 pages NONE, filed with the letter of _____
- ☒ the claims:
 pages 26-35, as originally filed
 pages NONE, as amended (together with any statement) under Article 19
 pages NONE, filed with the demand
 pages NONE, filed with the letter of _____
- ☒ the drawings:
 pages 1-15, as originally filed
 pages NONE, filed with the demand
 pages NONE, filed with the letter of _____
- ☐ the sequence listing part of the description:
 pages NONE, as originally filed
 pages NONE, filed with the demand
 pages NONE, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages NONE
- ☐ the claims, Nos. NONE
- ☐ the drawings, sheets/fig NONE

5. ☐ This opinion has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed."

WRITTEN OPINION

International application No.
PCT/US01/50012

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. STATEMENT

Novelty (N)	Claims <u>5-62</u>	<u>YES</u>
	Claims <u>1-4</u>	<u>NO</u>
Inventive Step (IS)	Claims <u>5-62</u>	<u>YES</u>
	Claims <u>1-4</u>	<u>NO</u>
Industrial Applicability (IA)	Claims <u>1-62</u>	<u>YES</u>
	Claims <u>NONE</u>	<u>NO</u>

2. CITATIONS AND EXPLANATIONS

Claims 1-4 lack novelty under PCT Article 33(2) as being anticipated by VAN AS et al. in U.S. Patent No. 5,764,392. VAN AS et al. discloses a method for providing a first communications service with a first guaranteed bandwidth over an optical ring, and providing a second communications service on the optical ring having a maximum bandwidth and a guaranteed minimum bandwidth (see col. 2, line 47 to col. 4, line 30, col. 5, line 41 to col. 9, line 38).

Claims 5-62 meet the criteria set out in PCT Article 33(2)-(4), because the prior art does not teach or fairly suggest a method, apparatus and a computer implemented method for variable rate pipe, by allocating a pipe having a bandwidth from part of a working channel and at least part of a protecting channel of a span of a bi-directional line switching ring (BLSR), transmitting a set of layer 2/3 traffic in the pipe, and reducing the pipe's bandwidth when a failure occurs in the ring.

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Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

TIME LIMIT:

The time limit set for response to a Written Opinion may not be extended. 37 CFR 1.484(d). Any response received after the expiration of the time limit set in the Written Opinion will not be considered in preparing the International Preliminary Examination Report.